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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,638	10/29/2003	Hisashi Kuroshima	17154	5491
23389 7590 03/20/2007 SCULLY SCOTT MURPHY & PRESSER, PC 400 GARDEN CITY PLAZA SUITE 300 GARDEN CITY, NY 11530			EXAMINER CONLEY, SEAN EVERETT	
			ART UNIT 1744	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/20/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/696,638

Applicant(s)

KUROSHIMA ET AL.

Examiner

Sean E. Conley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 27-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner. .  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 10/29/03, 2/27/04

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of species I, claims 1-26 in the reply filed on February 8, 2007 is acknowledged. Claims 27-34 are withdrawn from consideration for being directed to a non-elected species.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 18-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear to the examiner whether or not the claimed containers are a part of the device of claim 1. Furthermore, the containers in claims 18-21 are not positively recited in claim 1 and it appears as though claims 18-21 should depend from claims 2-4. The limitations of claims 18-21 are being treated as an intended use of the device since it is evident in claims 2-4 that the device only requires the capability to hold the containers.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-10, 14-16, and 18-26 are rejected under 35 U.S.C. 102(b) as being anticipated by O'Hearne (U.S. Patent No. 5,069,273).

Regarding claims 1, 5, 21, and 25, O'Hearne discloses a device comprising: a cooling holding unit (refrigerated compartment (26)) capable of holding and cooling sterilized equipment which has been sterilized by hot steam; a drying holding (heated compartment (24)) unit capable of holding and drying the sterilized equipment, and a storage unit (storage compartment (29)) capable holding and storing the sterilized equipment. The cooling unit, drying unit, and storage unit are all contained in a common unit (cabinet (22)) (see figures 1-2; see col. 2, line 43 to col. 67).

Regarding claims 2, 6-10, 22 and 26, O'Hearne discloses a cooling holding unit (26) is capable of holding containers storing the sterilized equipment. Specifically, the containers housing sterilized equipment can be held on trays (102) that are inserted into racks (100). Furthermore, the trays (102) inserted into racks (100) are the positioning

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portions that are capable of generally positioning the sterilized equipment such as endoscopes which are to be held therein (see figure 4; see col. 5, lines 52-59). As shown in figure 4, the trays (102) contain lowered positioning portions formed by the sidewalls and the bottom of the tray, wherein the sterilized equipment such as endoscopes can be held and arranged to fit the shape of the tray.

Regarding claims 3 and 23, O'Hearne discloses a drying holding unit (24) is capable of holding containers storing the sterilized equipment. Specifically, the drying holding unit (24) has trays (70) capable of holding the containers (see figure 6; see col. 4, lines 65-68).

Regarding claims 4 and 24, O'Hearne discloses a storage unit (compartment (29)) is capable of holding containers storing the sterilized equipment. Specifically, O'Hearne discloses that the compartment (29) is for storing dishes, utensils, etc. (see figures 1-2; see col. 2, lines 67-68). Thus, the compartment (29) is sized to hold containers storing sterilized equipment.

Regarding claims 14-16, O'Hearne discloses that the storage unit, cooling unit and drying unit are all capable of being opened and closed by means of a door. Specifically, all compartments (24, 26, and 29) of the cabinet (22) are opened and closed by doors (see figures 1 and 2; see col. 5, lines 30-40; see col. 3, lines 20-30).

Regarding claims 18-20, O'Hearne discloses a device that is capable of holding a container for storing the sterilized equipment wherein the container comprises detachable cooling members (lids) having cooling means and positioning members.

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Specifically, the compartments (24, 26, and 29) are capable of holding such a container (see figures).

6. Claims 1, 11-12 and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Hase et al. (U.S. Patent No. 6,626,508 B1).

Regarding claim 1, Hase et al. disclose a cabinet comprising: a cooling holding unit (cabinet cooler (20)) capable of holding and cooling sterilized equipment which has been sterilized by hot steam, and a storage unit (rack (22)) capable of holding and storing sterilized equipment (see figure 3; see col. 3, lines 14-38; col. 5, lines 35-48)

Regarding claims 11 and 12, Hase et al. disclose multiple fans (the top two forming a pair and the bottom two forming a pair) located near the top, middle, and bottom of the housing (24) of the cooling cabinet (20) (see figures 1 and 3; see col. 3, lines 54-63). The fans function to circulate air throughout the interior of the housing thus providing the capability cooling sterilized equipment contained in rack (22) from above and below.

Regarding claim 17, Hase et al. discloses a storage unit (rack (22)) that comprises multiple support members (100a, 100b) for holding trays containing articles to be cooled (see figure 2; see col. 5, lines 16-34). Thus, the storage area is capable of being sectioned according to the size of the sterilized equipment to be stored therein by adjusting the holding trays on the support members (100a, 100b).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hase et al. as applied to claim 11 above, and further in view of O'Hearne.

Hase et al. is silent with regards to the specific type of loading trays that are held in rack (22) for holding materials to be cooled.

O'Hearne discloses a cooling section (compartment (24)) having a fan (54) and a plurality of removable trays (70) which contain a plurality of apertures (76) forming a mesh that enable circulation of the cold air around the items contained in the tray (see figure 7; see col. 2, lines 59-64; see col. 4, line 65 to col. 5, line 17).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Hase et al. and include loading trays made of mesh in the rack (22) for holding articles to be cooled in order to facilitate circulation of cold air around the articles as taught by O'Hearne.

### ***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean E. Conley whose telephone number is 571-272-8414. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on 571-272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.




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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sec *AEC*

March 15, 2007

  
GLADYS JP CORCORAN  
SUPERVISORY PATENT EXAMINER